

B.11. No. G-74-12-35

Bill No. M-74-12-35

ORDINANCE NO. G-40-74

An Ordinance of the City of Fort Wayne, Indiana, concerning the construction of extensions and additions to the waterworks system owned and operated by said City, authorizing the issuance of revenue bonds to provide for the cost thereof, and matters connected therewith

WHEREAS, the City of Fort Wayne is the owner of and operates an unencumbered waterworks furnishing the public water supply to said City and its inhabitants; and

WHEREAS, the Board of Public Works, having the management of said waterworks, has determined, and the Council now finds, that said waterworks is in need of certain extensions and additions, consisting of renovating and improving the water filtration plant including the St. Joe dam intake, construction of feeder mains, reconstruction of distribution mains in the Wayndale area, and the purchase of water meters, as determined by the Engineering Department of the City's waterworks; that said extensions and additions are required in order to protect properly the health, well-being and property of the City and its inhabitants; and

WHEREAS, the Board of Public Works has determined that the cost of the proposed extensions and additions, based upon construction bids received and estimates as to contingencies and incidental expenses, will be Two Million Five Hundred Thousand Dollars (\$2,500,000), and has represented to the Council, and the Council now finds, that, subject to the approval of the Public Service Commission of Indiana, funds for said project should be provided by the issuance and sale of revenue bonds payable solely out of the revenues of said waterworks and not constituting a general obligation of the City; that

APPROVED AS TO FORM
AND LEGALITY, _____

David B. Lee CITY ATTORNEY

under the provisions of General Ordinances No. 2357 and 2454, such revenue bonds may be issued provided that the same are made junior and subordinate in all respects to the outstanding bonds designated as "Waterworks Revenue Bonds of 1951," issued under date of March 1, 1951, and outstanding after January 1, 1975, in the amount of Three Hundred Forty-six Thousand Dollars (\$346,000), maturing serially over a period ending on January 1, 1976, and are made on a parity with the bonds authorized by General Ordinance No. G-95-67, as amended by General Ordinances No. G-104-67 and G-110-67, and designated as "Waterworks Revenue Bonds of 1967," issued under date of November 1, 1967, and now outstanding in the amount of Three Million Dollars (\$3,000,000), maturing serially over a period ending on January 1, 2000, and the bonds authorized by General Ordinance No. G-29-68 and designated as "Waterworks Revenue Bonds of 1968," issued under date of December 1, 1968, and now outstanding in the amount of Three Million Two Hundred Thousand Dollars (\$3,200,000), maturing serially over a period ending on January 1, 2000; and that the revenues of the City's waterworks will be sufficient to provide for the operation and maintenance thereof, depreciation, and the servicing of said outstanding revenue bonds and the revenue bonds authorized by this ordinance, provided that the water rates and charges are increased concurrently herewith; and that it would be to the best interests of the City and its citizens to proceed with the proposed extensions and additions to the City's waterworks; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That the City of Fort Wayne (hereinafter

sometimes referred to as the "City"), being the owner of and engaged in operating an unencumbered waterworks supplying the City and its inhabitants with water for public and domestic use, now provide for certain needed extensions and additions to such waterworks and the payment for such extensions and additions by the issuance of bonds payable from the revenues and receipts of said waterworks, pursuant to and in the manner prescribed in The Indiana Code of 1971, Title 19, Article 3, Chapter 17, and the laws amendatory thereof and supplemental thereto (sometimes hereinafter referred to as the "Act"). The terms "waterworks," "waterworks system," and "system," wherever used in this ordinance shall be construed to mean and include the existing waterworks owned by the City of Fort Wayne, and all extensions, additions and improvements thereto and replacements thereof now or subsequently constructed or acquired.

Sec. 2. Said extensions and additions shall include the renovating and improving of the water filtration plant including the St. Joe dam intake, construction of feeder mains, reconstruction of distribution mains in the Wayndale area, and the purchase of water meters, all of which shall be constructed and installed in accordance with the plans and specifications prepared by the Engineering Department of the City's waterworks, which plans and specifications are made a part hereof by reference and are hereby approved. The Board of Public Works is hereby authorized to proceed with the construction and installation of said extensions and additions, and to enter into all contracts necessary for such purpose in conformity with the provisions of this ordinance and of said Act; provided that the principal and interest of all bonds issued

pursuant to this ordinance shall be paid solely and exclusively from the revenues of said waterworks system and that no bonds shall be issued or sold until the approval of the Public Service Commission of Indiana shall have been obtained for the issuance of such bonds, and said Commission shall have certified that the estimated income and revenues of the waterworks system under the increased rates, in addition to providing for operation, maintenance and depreciation of said system, are sufficient to pay the interest on and the principal of the outstanding bonds payable out of the revenues of the waterworks system and the interest on and principal of the bonds authorized by this ordinance. The Mayor and Board of Public Works are hereby authorized to file a proper petition with the Public Service Commission for the purpose of securing the required approval of said Commission.

Sec. 3. The income and revenues of the City's waterworks system shall be set aside into a separate and special fund to be used and applied in the maintenance and operation thereof, in establishing a depreciation account, and to the payment of the interest on and principal of the bonds authorized by General Ordinances No. 2357 and 2454, General Ordinance No. G-95-67 (as amended by General Ordinances No. G-104-67 and G-110-67), and General Ordinance No. G-29-68, and by this ordinance, and such other bonds as may be legally payable out of the income and revenues of the waterworks, in accordance with their respective priorities and provisions. The proportion of the gross revenues of said waterworks that shall be paid into the several accounts of said special fund, beginning as of the date of issuance of the bonds herein authorized, is hereby fixed and determined as follows:

(a) Operation and Maintenance Account. Sixty-five per cent (65%) of the gross revenues of said waterworks shall be set aside into the Operation and Maintenance Account, and shall be used solely to pay the necessary costs of the reasonable and proper operation and maintenance of the waterworks, including any taxes required to be paid. The necessary cost of the reasonable and proper operation and maintenance of the waterworks shall, in addition to the usual items chargeable to operation and maintenance, be deemed to include payments to the Civil City of Fort Wayne in lieu of taxes which would be payable if the waterworks were a privately-owned utility; provided, however, that no payments on account of said additional item shall be made which will in any wise adversely affect or jeopardize the continued operation of the waterworks or interfere with the payment of current operating and maintenance charges as the same accrue. The funds so set aside for operation and maintenance shall be applied exclusively to that purpose until a surplus shall have been accumulated in said account which will be equal to the cost of maintaining and operating the system during the remainder of the calendar, operating or fiscal year then current, and the cost of maintaining and operating said system during the calendar, operating or fiscal year then next ensuing. Any excess over such surplus may be transferred to the Depreciation Account, or the Bond and Interest Redemption Account hereinafter referred to.

(b) Depreciation Account. Twelve per cent (12%) of the gross revenues of said waterworks shall be set aside into the Depreciation Account and shall be expended in making good depreciation in the waterworks or in new construction,

extensions or additions to the property of the waterworks. Any accumulations in said Depreciation Account not required for immediate use may be invested in direct obligations of the United States Government to the extent permitted by law, and if so invested the income from the investment shall accrue to the Depreciation Account. The funds in said account shall not be used for any purpose other than as herein provided.

(c) Bond and Interest Redemption Account. Twenty-three per cent (23%) of the gross revenues of the waterworks shall, as such revenues are received, be set apart and paid into a special account to be identified as the "Bond and Interest Redemption Account." The funds in said account shall be used solely for the purpose of paying the interest on and principal of the Waterworks Revenue Bonds of 1967, issued pursuant to General Ordinance No. G-95-67 (as amended by General Ordinances No. G-104-67 and G-110-67), the Waterworks Revenue Bonds of 1968, issued pursuant to General Ordinance No. G-29-68, the bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued ranking on a parity therewith, to the extent required for that purpose; subject, however, to the prior payment from said account, in accordance with the terms thereof, of the principal of and interest on certain revenue bonds designated "Waterworks Revenue Bonds of 1951," issued pursuant to General Ordinances No. 2357 and 2454. If and when a surplus shall be created in said Bond and Interest Redemption Account which shall be in excess of the interest on and principal of the bonds, plus ten per cent (10%), which are payable during the then current calendar, operating or fiscal year, together with the

amount of interest on and principal of the bonds which will become due and payable during the calendar, operating or fiscal year then next ensuing, then any excess over such surplus may be transferred to either the Operation and Maintenance Account or the Depreciation Account. In the event any of the bonds payable out of said Bond and Interest Redemption Account shall be subject to redemption prior to maturity, any such excess over such surplus may also be used in the redemption of outstanding bonds at not more than the redemption prices and in accordance with the redemption provisions applicable thereto.

All of the funds of said several accounts shall be deposited in lawful depositories of the City and shall be continuously held and secured, or invested as provided by the laws of Indiana relating to the depositing, securing and holding, or investing of public funds. In no event shall any of the revenues of said waterworks be transferred or used for any purpose not authorized by this ordinance or reasonably implied by the provisions hereof, so long as there are outstanding any bonds payable out of the income and revenues of the City's waterworks.

Sec. 4. For the purpose of procuring funds with which to pay the cost of construction and installation of the extensions and additions to its waterworks, the City shall issue its revenue bonds under and pursuant to the provisions of this ordinance and said Act, which bonds shall be payable only out of the special Bond and Interest Redemption Account herein provided for, and shall be designated as "Waterworks Revenue Bonds of 1975." Said bonds shall be in a principal amount not exceeding Two Million Five Hundred Thousand Dollars

(\$2,500,000), in the denomination of Five Thousand Dollars (\$5,000) each, numbered consecutively from 1 up, dated as of the first day of the month in which said bonds are sold, and shall bear interest at a rate or rates not exceeding seven and one-half per cent (7-1/2%) per annum (the exact rate or rates to be determined by bidding), which interest shall be payable semi-annually on January 1 and July 1 of each year, beginning on July 1, 1975, and shall be evidenced by coupons attached to said bonds. Both bonds and interest coupons shall be payable at the Indiana Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the American National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or at the Manufacturers Hanover Trust Company, in the Borough of Manhattan, City and State of New York, in lawful money of the United States of America, and said bonds shall mature serially on January 1 in the years and amounts as follows:

Year	Amount	Year	Amount	Year	Amount
1977	\$45,000	1983	\$ 85,000	1989	\$160,000
1978	55,000	1984	90,000	1990	175,000
1979	55,000	1985	100,000	1991	190,000
1980	60,000	1986	110,000	1992	205,000
1981	70,000	1987	125,000	1993	225,000
1982	80,000	1988	145,000	1994	245,000
				1995	280,000

The bonds of this issue maturing on January 1, 1985, and thereafter, shall be redeemable at the option of the City, in whole or in part, in inverse chronological order of maturity and by lot within a maturity, on July 1, 1984, or any interest payment date thereafter, at face value, together with the following premiums:

- 5% if redeemed on July 1, 1984, or thereafter
on or before January 1, 1987;
- 4% if redeemed on July 1, 1987, or thereafter
on or before January 1, 1990;

- 3% if redeemed on July 1, 1990, or thereafter
on or before January 1, 1993;
- 2% if redeemed on July 1, 1993, or thereafter
prior to maturity;

plus in each case accrued interest to the date fixed for redemption. Notice of such redemption shall be published at least thirty (30) days prior to the date fixed for redemption at least one time in a newspaper or financial journal of general circulation published in the City of Indianapolis, Indiana, and a financial journal of general circulation published in the City of New York, New York, and a like notice shall be sent by mail to the holders of such bonds as are then registered. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. Interest on the bonds so called for redemption shall cease on the date fixed in said notice, if funds are available at the place of redemption to redeem the bonds when presented.

Sec. 5. Said bonds shall be executed in the name of the City by the facsimile signature of the Mayor, countersigned by the facsimile signature of the City Controller, and attested by the manual signature of the City Clerk, who shall affix the seal of the City to each of said bonds. The interest coupons attached to said bonds shall be executed by placing thereon the facsimile signatures of the Mayor and City Controller, and said officials, by the execution of said bonds, shall adopt as and for their own proper signatures their facsimile signatures appearing on said coupons. In case any officer whose signature appears on the bonds and coupons shall cease to be such officer before the delivery of such bonds, his signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Said bonds shall be negotiable by delivery unless registered. Upon presentation of the bonds at the office of the City Controller in the City of Fort Wayne, said City Controller shall register said bonds without charge or expense to the holder, as to the principal thereof. Such registry shall be noted on the bond, after which no transfer thereof will be valid unless made by the registered owner in person or by his attorney duly authorized and similarly noted on the bond, but said bond may be discharged from registry by being in like manner transferred to bearer, after which it shall be transferable by delivery but may be again registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but such coupons shall continue to pass by delivery only and shall remain payable to bearer.

Sec. 6. The form and tenor of said bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, to-wit:

UNITED STATES OF AMERICA
State of Indiana County of Allen

No. _____ \$5,000

CITY OF FORT WAYNE
WATERWORKS REVENUE BOND OF 1975

The City of Fort Wayne, in Allen County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered then to the registered holder hereof, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on the first day of January, 19__ (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest thereon from the date hereof until the principal is paid, at the rate of _____

per cent (_____ %) per annum, payable semi-annually on the first days of January and July of each year, beginning July 1, 1975, but only upon presentation and surrender of the annexed interest coupons as they severally become due.

Both principal and interest of this bond are payable in lawful money of the United States of America, at the Indiana Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the American National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or at the Manufacturers Hanover Trust Company, in the Borough of Manhattan, City and State of New York.

This bond is one of an authorized issue of five hundred (500) bonds of the City of Fort Wayne, of like date, denomination, tenor and effect, except as to rates of interest and dates of maturity, in the total amount of Two Million Five Hundred Thousand Dollars (\$2,500,000), numbered consecutively from 1 to 500 inclusive, issued for the purpose of providing funds to pay the cost of extensions and additions to the municipally owned waterworks of said City, pursuant to an ordinance passed by the Common Council of said City on the _____ day of _____, 197_, entitled "An Ordinance of the City of Fort Wayne, Indiana, concerning the construction of extensions and additions to the waterworks system owned and operated by said City, authorizing the issuance of revenue bonds to provide for the cost thereof, and matters connected therewith," and in strict compliance with the provisions of the governing statutes, particularly Title 19, Article 3, Chapter 17 of The Indiana Code of 1971, and all laws amendatory thereof or supplemental thereto.

The principal of and interest on this bond and all other bonds of said issue, certain Waterworks Revenue Bonds of 1967, now outstanding in the principal amount of Three Million Dollars (\$3,000,000), issued under date of November 1, 1967, pursuant to General Ordinance No. G-95-67, as amended by General Ordinances No. G-104-67 and G-110-67, bearing interest at the rate of five per cent (5%) per annum, and, maturing over a period ending on January 1, 2000, certain Waterworks Revenue Bonds of 1968, now outstanding in the principal amount of Three Million Two Hundred Thousand Dollars (\$3,200,000), issued under date of December 1, 1968, pursuant to General Ordinance No. G-29-68, bearing interest at the rates of five and one-half per cent (5-1/2%) and five and forty hundredths per cent (5.40%) per annum, depending on the maturities, and maturing over a period ending on January 1, 2000, all ranking on a parity herewith, and any bonds hereafter issued ranking on a parity therewith, are equally and ratably secured by and constitute a charge upon twenty-three per cent (23%) of the gross income and revenues of the municipally owned waterworks of the City, as the same now

exists or may hereafter be improved or extended, which percentage of such income and revenues is to be deposited in a special account designated as the "Bond and Interest Redemption Account," heretofore duly created by General Ordinances No. 2357 and 2454; all subject, however, to the prior payment from said account, in accordance with the terms thereof, of the interest on and principal of certain bonds designated "Waterworks Revenue Bonds of 1951," now outstanding in the principal amount of Three Hundred Forty-six Thousand Dollars (\$346,000), issued under date of March 1, 1951, bearing interest at the rate of two and one-half per cent (2-1/2%) per annum, and maturing serially over a period ending on January 1, 1976, which bonds were authorized by General Ordinances No. 2357 and 2454. The City shall not be obligated to pay said bonds or the interest thereon except from said special fund, and neither this bond nor the issue of which it is a part shall in any respect constitute a corporate indebtedness of the City within the provisions and limitations of the constitution of the State of Indiana.

The bonds of this issue maturing on January 1, 1985, and thereafter, are redeemable at the option of the City, in whole or in part, in inverse chronological order of maturity and by lot within a maturity, on July 1, 1984, or any interest payment date thereafter, at face value, together with the following premiums:

- 5% if redeemed on July 1, 1984, or thereafter on or before January 1, 1987;
- 4% if redeemed on July 1, 1987, or thereafter on or before January 1, 1990;
- 3% if redeemed on July 1, 1990, or thereafter on or before January 1, 1993;
- 2% if redeemed on July 1, 1993, or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption; provided notice of such redemption shall be given at least thirty (30) days prior to the date fixed therefor by one publication in a newspaper or financial journal of general circulation published in the City of Indianapolis, Indiana, and a financial journal of general circulation published in the City of New York, New York, and a like notice be sent by mail to the holders of such bonds as are then registered. Interest on the bonds so called for redemption shall cease on the redemption date fixed in said notice, if sufficient funds are available at the place of redemption to redeem the bonds when presented in accordance with the terms thereof. The bonds so redeemed prior to maturity shall be surrendered for cancellation, together with all unmatured interest coupons appurtenant thereto.

The City covenants that it will, to the fullest extent permitted by law, fix, maintain and collect an

aggregate of rates and charges for the services rendered by the City's waterworks system which will be sufficient to pay all costs of operation and maintenance of said system, to provide a proper and adequate depreciation account, and to create and maintain the sinking fund required for the payment of the interest on and principal of this issue of bonds and all other bonds payable from the revenues of the City's waterworks system, in accordance with the terms thereof, and that it will in all other respects faithfully comply with all other provisions of the ordinance and statute pursuant to which this bond is issued. In the event the City shall make any default in the payment of the principal of or interest on this bond, the holder hereof shall have all of the rights and remedies provided by the governing statutes, including the right to compel the collection of sufficient rates and charges to provide for the payment of this bond and the interest thereon in accordance with the terms hereof.

This bond may be registered in the name of the owner in the manner and with the effect provided in the ordinance hereinbefore referred to, but unless registered this bond shall pass by delivery only. The registration of this bond shall not affect the negotiability of the interest coupons attached hereto, but said coupons shall continue to pass by delivery merely and shall remain payable to bearer.

It is hereby certified and recited that all acts, conditions and things required to be done or to exist precedent to and in the execution, issuance and delivery of this bond have been done and performed and exist in regular and due form as provided by law.

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, State of Indiana, has caused this bond to be executed in its corporate name by the facsimile signature of its duly elected, qualified and acting Mayor, countersigned by the facsimile signature of its duly appointed City Controller, its corporate seal to be hereunto affixed and attested by the manual signature of its duly elected, qualified and acting City Clerk, and the interest coupons attached hereto to be executed by placing thereon the facsimile signatures of said Mayor and City Controller, all as of the first day of _____, 1975.

CITY OF FORT WAYNE
By _____ (facsimile)
Mayor

Countersigned:
_____ (facsimile)
City Controller

Attest:

City Clerk

(Interest Coupon)

Coupon No. _____

\$ _____

On _____ 1, 19____
(unless the bond herein mentioned shall be subject to and shall have been called for previous redemption), the City of Fort Wayne, Indiana, will pay to bearer at the Indiana Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the American National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or the Manufacturers Hanover Trust Company, in the Borough of Manhattan, City and State of New York, out of its waterworks Bond and Interest Redemption Account, the amount shown hereon, in lawful money of the United States of America, being the interest then due on its Waterworks Revenue Bond of 1975, dated _____ 1, 1975, No. _____.

CITY OF FORT WAYNE

By _____ (facsimile)
Mayor

_____ (facsimile)
City Controller

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the City Controller of the City of Fort Wayne, Indiana. No writing hereon except by the City Controller.

Date of Registry	In Whose Name Registered	City Controller
_____	_____	_____
_____	_____	_____

Sec. 7. The City Controller is hereby authorized and directed to have said bonds and coupons prepared, and the Mayor, City Controller and City Clerk are hereby authorized and directed to execute said bonds and the coupons to be attached thereto in the form and manner hereinbefore provided. The City Controller shall sell said bonds at public sale. Prior to the sale of the bonds, the City Controller shall cause to be published a notice of sale once each for two weeks in the

Fort Wayne Journal-Gazette and the Fort Wayne News-Sentinel, published in the City of Fort Wayne. The City Controller shall be authorized to publish said notice or a summary thereof in The Indianapolis Commercial, published in the City of Indianapolis, Indiana, and in The Bond Buyer, published in the City and State of New York. The City Controller shall be authorized to make such additional publication as he shall deem advisable. The date fixed for the sale shall not be earlier than seven (7) days after the last of said publications. The bond sale notice shall state the time and place of sale, the total amount of bonds, the maximum rate of interest thereon, the maturities thereof, the purpose for which the bonds are being issued, the terms and conditions upon which bids will be received and the sale made, and shall set out such other information as the City Controller, acting on the advice of the City Attorney and bond counsel, shall deem necessary. All bids for said bonds shall be sealed and shall be presented to the City Controller at his office. Bidders shall be required to bid for all of the bonds and to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed. Such interest rate or rates shall be in multiples of one-eighth ($1/8$) or one-tenth ($1/10$) of one per cent (1%), and not more than four (4) different interest rates shall be named by each bidder. A rate may be repeated without constituting a different rate. Bids specifying two or more interest rates shall also specify the amount and maturities of the bonds bearing each rate, but all bonds maturing on the same date shall bear the same rate. Each bid shall be accompanied by a certified or cashier's check, payable to the City of Fort Wayne, in the amount of

Twenty-five Thousand Dollars (\$25,000), as a guarantee of good faith. In the event the successful bidder shall fail or refuse to accept delivery of said bonds in accordance with his bid and the notice of sale, then said check and the proceeds thereof shall be the property of the City as its agreed liquidated damages. The City Controller shall award the bonds to the highest qualified bidder. The highest bidder shall be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. No bid for less than the par value of said bonds, including interest accrued to the date of delivery, shall be considered. The City Controller shall have the right to reject any and all bids. In the event no acceptable bid is received at the time fixed in said notice for the sale of said bonds, the City Controller shall be authorized to continue to receive bids from day to day thereafter for a period of not to exceed thirty (30) days without readvertisement; provided, however, that if said sale be continued, no bid shall be accepted which is lower than the highest bid received at the time fixed for said sale in the bond sale notice. Prior to the delivery of said bonds the City Controller shall obtain a legal opinion as to the validity of the bonds from Ice Miller Donadio & Ryan, bond counsel of Indianapolis, acting as bond counsel for the City, and shall furnish such opinion to the purchaser of the bonds. The fee of such bond counsel and all other incidental expenses incurred in connection with the issuance of the bonds authorized by this ordinance shall be paid out of the proceeds of said bonds.

Sec. 8. In the event it shall be hereafter determined that it is not necessary to issue all of the bonds authorized by this ordinance, or the Public Service Commission shall not approve the issuance of said total amount of bonds, the City Controller shall be authorized to sell and deliver a lesser amount of bonds than herein authorized, in which case the bonds not sold or delivered shall be of the last maturity or maturities.

The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding and special revenue obligations of the City, payable out of the income and revenues of the waterworks system of said City according to their tenor and effect, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for the purpose of paying the cost of construction and installation of the aforesaid extensions and additions to said waterworks and the expense necessarily incurred in connection with the issuance and sale of the bonds. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do all acts and things which may be necessary to carry out the provisions of this ordinance.

Sec. 9. Any accrued interest and any premium received at the time of the delivery of the bonds shall be deposited in the Bond and Interest Redemption Account hereinbefore referred to. The remaining proceeds from the sale of the bonds shall, upon receipt, be deposited in a bank or banks which are legally designated and qualified depositories for the funds of the City, in a special account or accounts to be designated as "City of Fort Wayne, 1975 Waterworks Construction Account." The funds in each of such special accounts

shall be deposited, secured, and held, or invested as provided by the laws of the State of Indiana relating to the depositing, securing and holding, or investing of public funds. The funds in such special account or accounts and any income derived from the investment thereof shall be expended only for the purpose of paying the cost of the extensions and additions to said waterworks as herein authorized, the incidental expenses incurred in connection therewith and with the issuance of bonds, including legal fees, and for the payment of interest accruing on the bonds during the period of construction, if required for that purpose. Any balance or balances remaining unexpended in such special account or accounts after the completion of the work, which are not required to meet unpaid obligations incurred in connection with the construction of the work, shall be deposited in the Bond and Interest Redemption Account within sixty (60) days after completion of the project.

Sec. 10. The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said waterworks and deposited in the special accounts hereinbefore established and all disbursements made therefrom and all transactions relating to said waterworks. There shall be prepared and furnished to the original purchaser of the bonds, and, upon written request, to any holder of the bonds, not more than sixty (60) days after the close of each annual fiscal period, operating and income statements and balance sheets of the waterworks, in reasonable detail, covering such annual fiscal period, together with a statement of the balances as of the close

of such fiscal year in each of the accounts hereinbefore referred to in this ordinance, which statements shall be prepared by an independent certified public accountant. Such annual statements shall also include a statement as to the number of customers of the waterworks at the close of said fiscal year, and the number at the end of the preceding year, and comments of said accountant relative to the manner in which the City has carried out the requirements of this ordinance and any other ordinances authorizing then outstanding bonds. The fees or charges of such accountant shall be deemed to be a cost of operation and maintenance of the waterworks. Copies of all such statements and reports shall at all times be kept on file in the office of the City Controller. Any holder of the bonds shall have the right at all reasonable times to inspect the waterworks and the records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

Sec. 11. The City shall, to the fullest extent permitted by law, establish, maintain and collect reasonable and just rates and charges for the services and facilities afforded by said waterworks which will provide revenues at least sufficient to pay the reasonable and proper cost of the maintenance and operation of the waterworks, to provide a proper and reasonable depreciation account, and to pay the principal of and interest on all bonds payable from the revenues of the waterworks as the same become due, and provide a surplus or margin of ten per cent (10%) of the principal and interest due each year, which shall be cumulative. So long as any of the bonds herein authorized are outstanding,

none of the facilities and services afforded by said waterworks shall be furnished without a reasonable and just charge being made therefor. The reasonable value of any facility or service rendered to the City, or to any department, agency or instrumentality thereof, including the use of water for hydrants for fire protection or for any other purpose, shall be charged against the City and shall be paid for as the charges accrue, and the revenues so received shall be deemed to be revenues derived from the operation of the waterworks and shall be used and accounted for in the same manner as other revenues derived from the operation of the waterworks.

Sec. 12. The City reserves the right to authorize and issue additional bonds, payable out of the revenues of the waterworks, ranking on a parity with the bonds authorized by this ordinance, for the purpose of financing the cost of future construction, additions, extensions and improvements to the waterworks, or the refunding of bonds payable from the revenues of the waterworks, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the revenues of the waterworks shall have been paid to date in accordance with the terms thereof, and all required payments into the Bond and Interest Redemption Account have been made in accordance with the provisions of this ordinance.

(b) (1) The amount of gross revenues of the waterworks allocated by Sec. 3(c) of this ordinance to and deposited in the Bond, and Interest Redemption Account in the calendar year immediately preceding the issuance of any such additional parity bonds shall be not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal

requirements of the then outstanding bonds and the additional parity bonds proposed to be issued, during the life of said outstanding bonds; or

(2) Prior to the issuance of said parity bonds, the proportion of the gross revenues allocated to said Bond and Interest Redemption Account shall be increased sufficiently so that said increased proportion applied to the previous calendar year's gross revenues would have produced revenues in said Bond and Interest Redemption Account for said year equal to not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued, during the life of said outstanding bonds; or

(3) Prior to the issuance of said parity bonds, the water rates and charges shall be increased sufficiently and the proportion of gross revenues allocated to said Bond and Interest Redemption Account increased sufficiently so that said increased water rates and charges applied to the previous calendar year's operations would have produced gross revenues in an amount so that the proportion allocated to said Bond and Interest Redemption Account for said year would have equaled not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued, during the life of said outstanding bonds.

For the purposes of this subsection, the records of the waterworks shall be analyzed and all showings shall be prepared by an independent certified public accountant employed

by the City for that purpose, which accountant shall certify that he has no pecuniary interest in the waterworks or improvements thereto other than in the making of said analysis and the preparation of said showings.

(c) The principal of the additional parity bonds shall be payable annually on January 1 and the interest semi-annually on January 1 and July 1 in the years in which principal and interest are payable.

(d) To the extent required by law, the issuance of the proposed additional parity bonds and any necessary increase in water rates and charges shall have been approved by the Public Service Commission of Indiana, or such successor body, if any, as may be vested by law with authority to approve the issuance of bonds payable from the revenues of municipal waterworks and increases in rates and charges for the services afforded thereby.

Parity bonds may also be issued to refund less than all of the then outstanding bonds issued pursuant to this ordinance or ranking, on a parity therewith, but any such refunding bonds shall be subject to the conditions in this section unless the bonds being refunded mature within three (3) months of the date of such refunding and no other funds are available to pay such maturing bonds. In computing the maximum annual interest and principal requirements pursuant to subsection (b), the interest on and principal of the refunding bonds shall be substituted for the interest on and principal of the bonds being refunded.

Sec. 13. For the purpose of further safeguarding the interests of the holders of the bonds, it is specifically provided as follows:

(a) All construction contracts shall be let to responsible contractors who shall be required to furnish construction bonds in an amount equal to one hundred per cent (100%) of the amount of such contracts, to insure the completion of such contracts in accordance with their terms, and such contractors shall be required to carry such employer's liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts.

(b) The extensions and additions shall be contracted for and constructed to the approval of the Engineering Department of the City's waterworks. All estimates for work done and material furnished shall first be checked by the Engineering Department of the City's waterworks before being approved by the City.

(c) The City shall, at all times, maintain said waterworks in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of the waterworks of a kind and in an amount such as is usually carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business in the State of Indiana, and any insurance proceeds collected shall be used in replacing the property destroyed or damaged, or if not needed for that purpose, shall be placed in the Depreciation Account.

(e) So long as any of the bonds herein authorized are outstanding, the City shall not mortgage, pledge or otherwise encumber its waterworks or any part thereof, and shall not

sell, lease or otherwise dispose of any portion thereof except such equipment which may become worn out or obsolete, and shall be replaced; nor shall the City, except as provided in Sec. 12 hereof, execute or issue any additional bonds or other obligations pledging any portion of the revenues of said waterworks unless the same be made subordinate and junior in all respects to the bonds heretofore issued and the bonds herein authorized, or unless all of the bonds herein authorized are redeemed and cancelled coincidentally with the delivery of such additional bonds or other obligations, or the bonds have been duly called for redemption and funds sufficient to effect such redemption are available and set aside at the place of redemption at the time of issuance of such additional bonds.

(f) The provisions of this ordinance shall be construed to create a trust in the proceeds derived from the sale of the bonds herein authorized, for the uses and purposes herein set forth, and so long as any of said bonds are outstanding, the provisions of this ordinance shall also be construed to create a trust in the fixed proportion of the revenues of the waterworks herein directed to be set apart and paid into the Bond and Interest Redemption Account for the uses and purposes of said account as in this ordinance set forth.

(g) The provisions of this ordinance shall constitute a contract by and between the City of Fort Wayne and the holders of the bonds herein authorized, all of the terms of which shall be enforceable in law or in equity, and after the issuance of the bonds this ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders of said bonds, nor

shall the Common Council of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such holders so long as any of the bonds or the interest thereon remain unpaid. The holders of the bonds shall have all of the rights, remedies and privileges, either expressly set forth in the provisions of IC 1971, 19-3-17, and the laws amendatory thereof and supplemental thereto, or implied therein, including the right to compel the collection of sufficient rates and charges to provide for the payment of the bonds issued hereunder and the interest thereon.

(h) None of the provisions of this ordinance shall be construed as requiring the expenditure of any funds of the City derived from any sources other than the proceeds of said bonds and the revenues derived from the operation of said waterworks system, and said bonds shall not in any respect constitute general obligations of the City in its corporate capacity. Sums paid and to be paid by the City to its waterworks as hydrant rental and for water furnished shall be deemed to be payments by the City for services rendered. The revenues so received by the waterworks shall be deemed revenues derived from the operation of the waterworks.

Sec. 14. Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than sixty-six and two-thirds per cent ($66\frac{2}{3}\%$) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Common Council of the City of Fort Wayne of such ordinance or ordinances supplemental hereto, as shall be

deemed necessary or desirable by the City of Fort Wayne for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on any bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

The holders of not less than sixty-six and two-thirds per cent (66-2/3%) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the City Clerk of the City of Fort Wayne. No holder of any bond issued pursuant to this ordinance shall have any right

to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City of Fort Wayne from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City of Fort Wayne and all holders of bonds issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the holders of the bonds authorized by this ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City of Fort Wayne and the consent of the holders of all the bonds issued pursuant to this ordinance then outstanding.

Sec. 15. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that none of the provisions of this ordinance shall be so construed as to repeal or modify the provisions of General Ordinances No. 2357 and 2454, so as to affect adversely the rights, interests or priorities of the holders of the outstanding revenue bonds issued pursuant to said ordinances.

Sec. 16. This ordinance shall be in full force and effect from and after its passage.


Councilman

Read the third time in full and on motion by _____
_____, seconded by _____, and duly adopted,
placed on its passage. Passed on the following vote:

Ayes:

Nays:

Absent:

Date:

City Clerk

Passed and adopted by the Common Council of the City of
Fort Wayne, Indiana, as Ordinance No. _____ on the
_____ day of _____, 197__.

Presiding Officer

Attest:

City Clerk

Presented by me to the Mayor of the City of Fort Wayne,
Indiana, on the _____ day of _____, 197__, at the
hour of _____ .M., E.S.T.

City Clerk

Approved and signed by me this _____ day of _____,
197__, at the hour of _____ .M., E.S.T.

Mayor

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: _____

Charles W. Whitman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Luiga, and duly adopted, placed on its passage.

Passed (~~Lost~~) by the following vote:

AYES 7, NAYS 0, ABSTAINED _____, ABSENT 2 to-wit:

BURNS	<u>X</u>	_____	_____	_____
HINGA	<u>X</u>	_____	_____	_____
KRAUS	_____	_____	_____	<u>X</u>
MOSES	<u>X</u>	_____	_____	_____
NUCKOLS	<u>X</u>	_____	_____	_____
SCHMIDT, D.	_____	_____	_____	<u>X</u>
SCHMIDT, V.	<u>X</u>	_____	_____	_____
STIER	<u>X</u>	_____	_____	_____
TALARICO	<u>X</u>	_____	_____	_____

DATE: 12-27-74

Charles W. Whitman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning-Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. B-40-74 on the 27th day of December, 1974.

ATTEST: (SEAL)

Charles W. Whitman
CITY CLERK

James J. Talarico
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27 day of December, 1974, at the hour of 6 o'clock P M., E.S.T.

Charles W. Whitman
CITY CLERK

Approved and signed by me this 27 day of December, 1974, at the hour of 8 o'clock P M., E.S.T.

John H. Law
MAYOR

SUSPENSION OF RULES

BILL NO. 6-74-12-35

Councilman Burns, moved to suspend the rules on passage of BILL NO. M-74-12-35 at this meeting of December 27, 1974, of the Common Council of the City of Fort Wayne, Indiana. Said motion was seconded by Councilman Hinga, and duly passed by unanimous vote of all legally elected members of the said Common Council.

The above BILL and General ORDINANCE was accordingly placed on its passage.

DATE: 12-27-74

Samuel J. Talarico PRESIDENT OFFICER Charles W. Westerman CITY CLERK

	7 <u>AYES</u>	0 <u>NAYS</u>	<u>ABSTAINED</u>	2 <u>ABSENT</u>	<u>TO-WIT</u>
<u>BURNS</u>	<u>X</u>	—	—	—	—
<u>HINGA</u>	<u>X</u>	—	—	—	—
<u>KRAUS</u>	—	—	—	<u>X</u>	—
<u>NUCKOLS</u>	<u>X</u>	—	—	—	—
<u>MOSES</u>	<u>X</u>	—	—	—	—
<u>D. SCHMIDT</u>	—	—	—	<u>X</u>	—
<u>V. SCHMIDT</u>	<u>X</u>	—	—	—	—
<u>STIER</u>	<u>X</u>	—	—	—	—
<u>TALARICO</u>	<u>X</u>	—	—	—	—

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. 6-40-74

ATTEST: (SEAL)

DATE: 12-27-74

Charles W. Westerman
CITY CLERK

CONCURRED IN
DATE 12-27-74 CHARLES W. WESTERMAN, CITY CLERK

Bill No. G-74-12-35

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
of the City of Fort Wayne, Indiana, concerning the construction of extensions and
additions to the waterworks system owned and operated by said City, authorizing the
issuance of revenue bonds to provide for the cost thereof, and matters connected
therewith

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance 21 PASS.

Paul M. Burns - Chairman

James S. Stier - Vice-Chairman

Vivian G. Schmidt

Donald J. Schmidt

Eugene Kraus, Jr.



James S. Stier

Vivian G. Schmidt

DATE 12-27-94 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK